IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1243 of 2003

to

FIRST APPEALNo 1247 of 2003

HON'BLE MR.JUSTICE KSHITIJ R.VYAS

and

HON'BLE MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

LAXMANJI MAGANJI THAKOR SINCE DECD. THRO' HEIRS & LRS

Versus

SPECIAL LAQ. OFFICER

Appearance:

MR AJ PATEL for Appellants

MR HL JANI, AGP, for Respondents

CORAM : HON'BLE MR.JUSTICE KSHITIJ R.VYAS

and

HON'BLE MR.JUSTICE M.C.PATEL

Date of decision: 25/02/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE M.C.PATEL)

1. These appeals are filed by the original claimants under section 54 of Land Acquisition Act read with section 96 of CPC claiming enhanced compensation.

2. The lands in question are situated in village Ghughala, Taluka Kadi, District Mehsana. The said lands were acquired for the purpose of Narmada Canal under section 4 Notification which was published in the official gazette on 13.10.1992. The Land Acquisition Officer, by his award dated 24.11.1994, offered compensation at the rate of Rs.3/- per square metre. The claimants were not satisfied with the said offer and at their instance references were made to the Reference Court under section 18 of the Act. They claimed compensation at the rate of Rs.30/- per square metre.

3. The Reference Court consolidated five references and after recording the evidence, oral and documentary, adduced by the parties, determined the market value at the rate of Rs.16/- per square metre i.e. awarded additional compensation at the rate of Rs.13/- per square metre.

4. The claimants have filed these appeals claiming ehanced compensation.

5. It appears that under the same notification several other lands were also acquired for the same purpose, and the Land Acquisition Officer by award dated 16.3.1995 had offered compensation at the rate of Rs.3/per square metre. The claimants in the said cases also filed references being Land Reference Cases No.263 to 270 of 1996 and the said references were disposed of separately by the same Reference Court by common judgement and award of the same date i.e. 14.9.2000 by awarding compensation at the same rate i.e. Rs.16/- per square metre in all. The State had filed First Appeal Nos.474/2002 to 481/2002 against the said award passed in the aforesaid group of references before this Court. The said references were decided by the Division Bench of this Court on 18.9.2002 and it was held that the claimants were entitled to compensation at the rate of Rs.20/- per square metre. The Division Bench, therefore, dismissed the appeals filed by the State and partly allowed the Cross Objections filed by the respondents-claimants in the said group of appeals, and awarded compensation at the rate of Rs.20/- per square metre.

6. Learned Advocate Mr. A.J. Patel appearing for the appellants-claimants contended that the claimants in the present cases are entitled to compensation at the same rate as awarded by the Division Bench in First Appeal Nos.474/2002 to 481/2002, which arose out of other references involving the lands of the same village acquired for the same purpose under the same notification and which were disposed of by the same Reference Court on the same date by separate judgement and award. The Division Bench in those cases held that the claimants were entitled to compensation at the rate of Rs.20/- per square metre. Mr. H.L. Jani, learned AGP, could not point out any circumstances or features which would distinguish the lands in the present cases from the lands in the earlier group. In our opinion, the claimants in the present group of cases are entitled to the same compensation as was awarded by the Division Bench in the previous group of cases.

7. In view of the above discussion, the market value of the lands in the present cases is determined at Rs.20/- per square metre and it is held that the claimants are entitled to compensation at the said rate instead of Rs.16/- per square metre as determined by the Reference Court.

8. The Reference Court held that the claimants were not entitled to interest on the amount which is awarded under section 23(2) and 23(1-A) of the Act in view of the decision in the case of Special Land Acquisition Officer,Bharuch Vs. Jagdishbhai, reported in 1997(2) GLH (UJ-17) 27. However the Constitution Bench of the Supreme Court in the case of Sunder Vs. Union of India, reported in 2001(3) GLH 446 held in para 23 of the judgement that the expression "awarded amount" would mean the amount of compensation worked out in accordance with the provisions contained in Section 23, including all the sub-sections thereof, and it was held that the State was liable to pay interest on the amount envisaged under section 23(2) of the Land Acquisition Act. Following this decision of the Constitution Bench, the Supreme Court in the case of N.I. Trust Vs. Vasant Rao, reported in 2003(1) GLH 140, held that the claim to interest on the sum payable under sub-section (1-A) of Section 23 of the Land Acquisition Act must also be allowed in view of the judgement of the Constitution Bench. The Division Bench of this Court has also held so in First Appeal No.1756/2003 to 1774/2003 and First Appeal No.1699/2002 to 1711/2002 decided on 9.10.2003. The claimants are, therefore, entitled to interest on the

amount awarded under section 23(2) and 23(1-A) of the Act.

9. Accordingly the appeals are partly allowed. The award of the Reference Court shall stand modified to the aforesaid extent. There shall be no order as to costs. Decree shall be drawn accordingly.

[KSHITIJ R. VYAS, J.]

[M.C. PATEL, J.]
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